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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,076	06/25/2003	Hans-Walter Wodtke	03193/000M886-US0	6532
7278	7590	08/22/2006	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257				JOHNSON, VICKY A
ART UNIT		PAPER NUMBER		
		3682		

DATE MAILED: 08/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/607,076	WODTKE, HANS-WALTER
	<b>Examiner</b>	<b>Art Unit</b>
	Vicky A. Johnson	3682

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 08 August 2006.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-13 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-13 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 8, 2006 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 5-10, 12, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Menjak et al (US 6,997,076).

Menjak et al disclose a gear drive mechanism with an anti-rattle device, comprising: a first gear (314) rotatable about a first axis, a second gear (316) rotatable about a second axis, wherein the second gear meshes with the first gear (see Fig 17), and the second axis is located at a predetermined distance from the first axis (see Fig 17), a first friction rim surface that is rotationally coupled to the first gear (see Fig 17),

and a second friction rim surface that is rotationally coupled to the second gear (see Fig 17), wherein the first friction rim surface and the second friction rim surface are in circumferential contact with each other (see Fig 17) and thereby enabled to transmit a friction-based torque between each other (col. 8 lines 1-29), the first and second gear having first and seconds retaining features formed as protrusions (well known).

Re claim 2, at least one of the first and second friction rim surfaces is formed on the respective one of a first and second friction wheel (see Fig 17) attached to one side of the respective one of the first and second gears.

Re claim 3, the first and second friction rim surfaces have frusto-conical shapes with respective first and second median radii (see Fig 17), and wherein said first and second median radii are equal to respective pitch circle radii of the first and second gears (see Fig 17).

Re claim 5, one of the first and second friction rim surfaces is biased (322) against the other with a pre-tensioning force acting in a direction that causes an increased contact pressure between the first and second friction rim surfaces (see Fig 17).

Re claim 6, said pre-tensioning force is directed axially (see Fig 17).

Re claim 7, the biased one of said first and second friction rim surfaces is formed on an outer circumference of a dish-shaped spring disc (see Fig 17).

Re claim 8, the first and second friction rim surfaces are formed, respectively, on first and second ring discs that are coaxially arranged on, respectively, the first and second gears (see Fig 17).

Re claim 9, the first and second friction rim surfaces are hardened (the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight).

Re claim 10, the first and second friction rim surfaces are provided with a coating (inherent, lubrication).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menjak et al (US 6,997,076).

Menjak et al disclose a device as described above, but does not disclose the frusto-conical shapes have cone angles of substantially 25.degree.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to discover the optimum value, since it has been held that

discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Re claim 11, Menjak et al disclose a device as described above, but does not disclose the first friction rim surface comprises two first parts arranged, respectively, on opposite sides of the first gear, and wherein the second friction rim surface comprises two second parts arranged, respectively, on opposite sides of the second gear.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a second anti rattle device on the opposite side of the gear, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St Regis Paper Co. v. Bemis Co.*, 193 USPQ

6. Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vicky A. Johnson whose telephone number is (571) 272-7106. The examiner can normally be reached on Monday-Friday (7:00a-3:30p).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6217. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Vicky A. Johnson 8/17/02  
Primary Examiner  
Art Unit 3682